

### **REMARKS**

Claims 1-2, 4, 6, and 8 are canceled with the present amendment. Claims 3, 5, and 7 are pending in the case. Claims 1-2, 4, 6, and 8 are rejected under 35 U.S.C. 102(b) as anticipated and under 103(a) as obvious. Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

#### **A. Clarification**

It is noted that in the Office Action Summary, the Examiner states that Claims 1-9 are pending and rejected in the application. Only 8 claims, however, were filed with this application. Thus, for purposes of this response, it is assumed that the Examiner's recitation of 9 was a typographical error. Clarification is respectfully requested.

#### **B. Obviousness-type Double Patenting Rejections**

Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-5 of copending U.S. Application No. 09/982,703, and over Claims 1-5 and 8-10 of copending U.S. Application No. 09/982,745. Included with this response is a Terminal Disclaimer, disclaiming the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §154 to §156 and §173 as presently shortened by any terminal disclaimer, of copending U.S. Application No. 09/982,703 and copending U.S. Application No. 09/982,745. Accordingly, it is respectfully requested that the obviousness-type double patenting rejections be withdrawn.

#### **C. Anticipation and Obviousness Rejections**

The Examiner rejects Claims 1-2, 4, 6, and 8 on grounds of anticipation and obviousness. These rejections are respectfully traversed. However, in order to facilitate prosecution of the applications, Claims 1-2, 4, 6, and 8 are canceled with this response. Thus, the Examiner's rejections are rendered moot.

The remaining claims in the application, Claims 3, 5, and 7, are free from any art-based rejections.

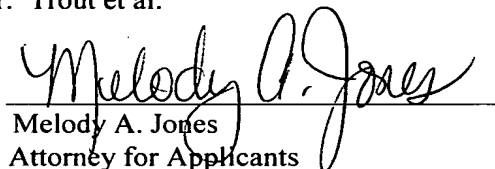
**Conclusion**

In view of the foregoing remarks, Applicants respectfully request that the Examiner withdraw the obviousness-type double patenting rejections and allow as patentable pending Claims 3, 5, and 7.

Respectfully submitted,

For: Trout et al.

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